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Kevin M. Tresenriter

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EXAMINER

MEINECKE DIAZ, SUSANNA M

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/652,008	Applicant(s) TRESENITER, KEVIN M.	
	Examiner Susanna M. Diaz	Art Unit 3684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/27/09</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This non-final Office action is responsive to Applicant's response filed July 27, 2009.

Claims 2, 11, 12, 16, 21, 24, 25, 32, 34, 42, 44, 45, 52, 54, 55, 59, and 67 have been amended.

Claims 2-67 are presented for examination.

Response to Arguments

2. Applicant's arguments filed July 27, 2009 have been fully considered but they are not persuasive.

The Examiner has revised the rejections under 35 U.S.C. § 112, 2nd paragraph. The rejections under 35 U.S.C. § 101 have been withdrawn. Examiner will address Applicant's arguments that pertain to the maintained rejections.

Regarding the § 112, 2nd paragraph rejection of claim 2, "Applicant submits that one of ordinary skill in the art would be able to determine the plain meaning of the claim terms, including 'skipping and not processing each order price change information of the plurality of second messages,' which on its face specifies that the price change information in the plurality of second messages is not processed if the update flag is set, and transmitting messages, particularly in view of the specification, which includes descriptions of the system and multiple examples." (Page 21 of Applicant's response) The Examiner is not so much questioning the plain meaning of the claim terms *per se*, but more so the scope of the overall operations of the claim as a whole. The claim does

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not clarify what the first message represents, so one question is whether or not the first message is being merely received and stored while the second messages are received or whether the first message includes an instruction that spans several time units from start to finish. Also, claim 2 positively recites that a plurality of second messages are received while processing the first message and then the update flag is set upon receiving a first one of the plurality of second messages while processing the first message. Also recited is that the status of the update flag is checked "upon at least approximately completing processing the first message." It is not clear what is meant by "approximately completing processing the first message." Applicant's references to examples from the specification often cite time units to represent how long it takes to process the various messages. In terms of these time units, when is a message deemed to be at the stage of "upon at least approximately completing processing"? For example, if it takes 3 time units to process the first message, is the first message at least approximately completely processed at 2 time units, 2 1/2 time units, or just at 3 time units? What is the likelihood that at least one of the plurality of second messages will be received before the stage of "upon at least approximately completing processing" the first message? According to the "receiving a plurality of second messages" step, the plurality of second messages have to be received before the first message is completely processed (i.e., "while processing the first message"). The only time that the second messages would not be skipped and would be processed is if they all happen to be received within some minute fraction of a time unit just before the first message is fully processed. Even, if as Applicant asserts, there is a scenario in which at least one

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of the second messages is processed, it is not clear how the content of the second message(s) affects the claimed invention as a whole. The second messages comprise order price change information. Regardless of whether any of the second messages are processed or not, it is the fourth message (comprising current market information) that is used to determine a price for a quantity of an article for the market. The order price change information from the second messages does not seem to be used at all for further processing within the scope of the claimed invention, thereby raising questions regarding the intended significance of these second messages.

Regarding the rejection of claim 34 under 35 U.S.C. 112, 2nd paragraph, "Applicant also submits that one of ordinary skill in the art would understand the meaning of 'perform at least one trade for a market with the trading exchange according to a snapshot view of the market' as recited in independent claim 34, particularly in view of the specification...Moreover, Applicants point out that claim 35 actually defines the 'snapshot view of the market' as comprising current market information and the at least one trade comprises an order, which is consistent with the specification." (Page 26 of Applicant's response) The Examiner questions what the legal metes and bounds implied by performing at least one trade "according to a snapshot view of the market" would be. While it's understood that a "snapshot view of the market" conveys current market data, it is not clear which data, if any particular data, from the snapshot view of the market is utilized to actively perform the trade (or to make a trade-related decision). As a matter of fact, Applicant's cited excerpt from the specification says that the "current snapshot view" is obtained by the trader; however, the order is actually placed based on

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the "current and immediate order data, and not data that may be old or not otherwise current." (Cited by Applicant on page 26 of Applicant's response) It's not the snapshot view of the market *per se* that is used to perform the at least one trade, but more specifically the "current and immediate order data." Therefore, the metes and bounds of performing at least one trade "according to a snapshot view of the market" remain ambiguous.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2-67 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 2, the second step (i.e., the receiving a plurality of second messages step) requires the second messages to be received while processing the first message, which means that the update flag in the third step is always going to be set. This in turn means that conditions will be met to trigger "skipping and not processing each order price change information of the plurality of second messages at the trading system" and "transmitting a third message from the trading system requesting current market information from the exchange system." Does this mean that none of the order price change information from the second messages is processed? Alternatively, is only certain price change information from one or a subset of the second messages

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processed? If only certain price information is processed, how it is determined which price information to process and what is the extent of processing of the price information? Is it merely updated or is analysis performed on the price information to yield further derived data? It is not clear what is occurring in these steps.

The Examiner is not so much questioning the plain meaning of the claim terms *per se*, but more so the scope of the overall operations of the claim as a whole. The claim does not clarify what the first message represents, so one question is whether or not the first message is being merely received and stored while the second messages are received or whether the first message includes an instruction that spans several time units from start to finish. Also, claim 2 positively recites that a plurality of second messages are received while processing the first message and then the update flag is set upon receiving a first one of the plurality of second messages while processing the first message. Also recited is that the status of the update flag is checked "upon at least approximately completing processing the first message." It is not clear what is meant by "approximately completing processing the first message." Applicant's references to examples from the specification often cite time units to represent how long it takes to process the various messages. In terms of these time units, when is a message deemed to be at the stage of "upon at least approximately completing processing"? For example, if it takes 3 time units to process the first message, is the first message at least approximately completely processed at 2 time units, 2 1/2 time units, or just at 3 time units? What is the likelihood that at least one of the plurality of second messages will be received before the stage of "upon at least approximately completing processing"

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the first message? According to the “receiving a plurality of second messages” step, the plurality of second messages have to be received before the first message is completely processed (i.e., “while processing the first message”). The only time that the second messages would not be skipped and would be processed is if they all happen to be received within some minute fraction of a time unit just before the first message is fully processed. Even, if as Applicant asserts, there is a scenario in which at least one of the second messages is processed, it is not clear how the content of the second message(s) affects the claimed invention as a whole. The second messages comprise order price change information. Regardless of whether any of the second messages are processed or not, it is the fourth message (comprising current market information) that is used to determine a price for a quantity of an article for the market. The order price change information from the second messages does not seem to be used at all for further processing within the scope of the claimed invention, thereby raising questions regarding the intended significance of these second messages.

Claim 2 fails to define the content of the first message at the trading system.

What is the nature of the content of the first message?

Claims 11-15 recite similar limitations as those found in claims 1-10; therefore, the same rejections apply.

Claims 16-23 recite similar limitations as those found in claims 1-10; therefore, the same rejections apply. Furthermore, claim 16 recites the step of “receiving a plurality of other electronic messages from the trading exchange at the trading system while processing the first electronic message.” These received messages are all

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received while processing the first electronic message. However, the next step recites that a plurality of the received messages are skipped and not processed while a most recently received message from the plurality of received messages is processed. In dependent claim 18, all of the received messages are dumped before processing is complete. If all of the received messages are dumped before processing is complete, how can the most recent of all received messages be processed? Is it dumped as well (prior to completion of processing)? Dependent claim 23 specifies that this most recently received message comprises "*at least one member* of a group consisting of a first message received immediately after processing is complete, a second message received immediately before processing is complete, and a third message received at a same time processing is complete." Independent claim 16 recites that the most recently received message is part of the plurality of messages received during processing of the first message; therefore, it is not understood how the most recently received message could also comprise a first message received immediately after processing is complete or a third message received at a same time processing is complete. The scope of claims 16 and 23 potentially conflict with one another, thereby rendering the metes and bounds of claims 16-23 further vague and indefinite.

Claim 24 recites similar limitations as those found in claims 1-10 and 16-23; therefore, the same rejections apply.

Claims 25-33 recite similar limitations as those found in claims 1-10; therefore, the same rejections apply.

Claims 34-43 recite similar limitations as those found in claims 1-10; therefore, the same rejections apply. Furthermore, it is not clear what the metes and bounds of a "snapshot view of the market" are. How is a trade performed "according to a snapshot view of the market" (as recited in independent claim 34)? The Examiner questions what the legal metes and bounds implied by performing at least one trade "according to a snapshot view of the market" would be. While it's understood that a "snapshot view of the market" conveys current market data, it is not clear which data, if any particular data, from the snapshot view of the market is utilized to actively perform the trade (or to make a trade-related decision). As a matter of fact, Applicant's cited excerpt from the specification says that the "current snapshot view" is obtained by the trader; however, the order is actually placed based on the "current and immediate order data, and not data that may be old or not otherwise current." (Cited by Applicant on page 26 of Applicant's response filed July 27, 2009) It's not the snapshot view of the market *per se* that is used to perform the at least one trade, but more specifically the "current and immediate order data." Therefore, the metes and bounds of performing at least one trade "according to a snapshot view of the market" remain ambiguous.

Claims 44-67 recite similar limitations as those found in claims 1-10 and 34-43; therefore, the same rejections apply.

Appropriate correction is required.

The following art rejections reflect the Examiner's best understanding of the claimed invention in light of the numerous rejections under 35 U.S.C. § 112, 2nd paragraph, set forth above.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 2, 3, 8, 11-17, 19-26, 31, 34-36, 41, 44-46, 51, 54-60, and 62-67 are rejected under 35 U.S.C. 102(a, e) as being anticipated by Keith (US 2001/0042040 A1).

Keith discloses a method for trading in a market between a trading exchange and a trading system (Fig. 1; ¶¶ 53-61, 184), the method comprising:

[Claim 2] electronically processing a first message at at least one processor of the trading system (¶ 61 – All ELF communications go through the umpires; ¶¶ 61-88 – The ELFs submit order requests to at least one umpire. Notification of the order request and corresponding details is indicative of a first message);

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receiving a plurality of second messages at the trading system while processing the first message, the plurality of second messages each comprising order price change information (Figs. 86, 87; ¶¶ 73-85, 117, 261 – An auction mode implies that various prices are received for consideration);

setting an update flag at the at least one processor of the trading system upon receiving a first one of the plurality of second messages while processing the first message (Figs. 86, 87; ¶¶ 87, 119, 152, 175, 261 -- Furthermore, it is noted that the content of the second messages may be non-functional descriptive material, i.e., it is not functionally involved in the manipulative steps of the invention nor does it alter the recited structural elements, if the plurality of second messages are received before at least approximately completing processing the first message since this causes an update flag to be set, which also causes each order price change information of the plurality of second messages to be skipped and not processed; therefore, the nature of the data in the second message does not effectively serve to patentably distinguish the claimed invention over the prior art when this scenario occurs. The manipulative steps of the invention would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability as the claimed invention fails to present a new and unobvious functional relationship between the descriptive material and the substrate, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32

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USPQ2d 1031 (Fed. Cir. 1994); In re Ngai, 367 F.3d 1336, 1336, 70 USPQ2d 1862, 1863-64 (Fed. Cir. 2004); MPEP § 2106);

upon at least approximately completing processing the first message, determining if the update flag set is set at the least one processor and, if set, skipping and not processing each order price change information of the plurality of second messages at the trading system and, if set, transmitting a third message from the trading system requesting current market information from the exchange system (Figs. 86, 87; ¶¶ 87, 107, 119, 126, 152, 175, 261, 262, 336-412, 445, 465-463);

upon at least approximately completing processing the first message and after determining if the update flag is set, receiving a fourth message at the trading system comprising the current market information (¶¶ 107, 119, 126, 261, 262, 336-412, 445, 455-463);

processing the fourth message at the at least one processor of the trading system and determining a price for a quantity of an article for the market based on the current market information (¶¶ 87, 107, 119, 126, 152, 175, 261, 262, 336-412, 445, 455-463); and

transmitting a fifth message from the trading system via the at least one processor, the fifth message comprising at least one member of a group consisting of an offer to sell the quantity of the article at the price and a bid to buy the quantity of the article at the price (¶¶ 93-97 – Furthermore, it is noted that the content of the fifth message is non-functional descriptive material, which is not functionally involved in the manipulative steps of the invention nor does it alter the recited structural elements;

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therefore, the nature of the data does not effectively serve to patentably distinguish the claimed invention over the prior art. The manipulative steps of the invention would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability as the claimed invention fails to present a new and unobvious functional relationship between the descriptive material and the substrate, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *In re Ngai*, 367 F.3d 1336, 1336, 70 USPQ2d 1862, 1863-64 (Fed. Cir. 2004); MPEP § 2106);

[Claim 3] entering at least one formula with a formula engine, the formula comprising a conditional operation to calculate at least the price based on the current market information (§§ 87, 119, 152, 175 – A broker can program its own ELF. An ELF can make pricing determinations based on external market data);

wherein determining the price comprises processing the formula to calculate at least the price based on the current market information (§§ 87, 107, 119, 126, 152, 175, 261, 262);

[Claim 8] automatically posting the quantity of the article for an order but reserving another quantity of the article for another order having another price and automatically posting the other order with the other quantity and the other price when the order is executed (§ 431).

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[Claims 11-15] Claims 11-15 recite limitations already addressed by the rejection of claims 2, 3, and 8 above; therefore, the same rejection applies.

Further regarding claim 14, as discussed in the rejection of claim 2, Keith discloses a final price or bid, which is effectively a type of final price change order. Furthermore, since the content of fifth message is not used for subsequent processing specifically requiring that type of data, this content of the fifth message is non-functional descriptive material. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability as the claimed invention fails to present a new and unobvious functional relationship between the descriptive material and the substrate, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *In re Ngai*, 367 F.3d 1336, 1336, 70 USPQ2d 1862, 1863-64 (Fed. Cir. 2004); MPEP § 2106.

As per claim 15, Keith discloses electronically executing the order (¶¶ 67, 68, 85, 162, 188, 193, 275).

[Claims 16, 17, 19-23] Claims 16, 17, and 19-23 recite limitations already addressed by the rejection of claims 2, 3, 8, and 11-15 above; therefore, the same rejection applies.

[Claim 24] Claim 24 recites limitations already addressed by the rejection of claims 2, 3, 8, and 11-15 above; therefore, the same rejection applies.

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[Claims 25, 26, 31] Claims 25, 26, and 31 recite limitations already addressed by the rejection of claims 2, 3, 8, and 11-15 above; therefore, the same rejection applies.

Further regarding claim 25, Keith discloses that the overall system uses a snapshot trade manager (§ 445).

[Claims 34-36, 41] Claims 34-36 and 41 recite limitations already addressed by the rejection of claims 2, 3, 8, 11-15, 25, 26, and 31 above; therefore, the same rejection applies.

Further regarding claim 34, Keith discloses a system for trading, comprising:

- a memory;
- a processor to connect with a trading exchange (Fig. 1; §§ 53-55); and
- a software application stored in the memory of the system and executable on the processor to perform at least one trade for a market with the trading exchange according to a snapshot view of the market (Fig. 1; §§ 53-55, 175, 445 – Executable software requires a medium in which to operate; therefore, the existence of a memory of the system is implied).

[Claims 44-46, 51, 54-60, 62-67] Claims 44-46, 51, 54-60, and 62-67 recite limitations already addressed by the rejection of claims 2, 3, 8, 11-15, 25, 26, 31, 34-36, and 41 above; therefore, the same rejection applies. It is noted that Keith discloses that the snapshot view of the market comprises current market information and the at least one trade comprises an order (§ 445).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4-7, 9-10, 18, 27-30, 32, 33, 37-40, 42-43, 47-50, 52-53, and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keith (US 2001/0042040 A1), as applied to claims 2, 3, 8, 11-17, 19-26, 31, 34-36, 41, 44-46, 51, 54-60, and 62-67 above, in view of Official Notice.

[Claim 4] As discussed above, Keith discloses various approaches to calculating at least the price based on the current market information, which implies the use of various formulas. Keith also explains that a user may customize their ELF with a particular pricing strategy (¶¶ 87, 108). Keith does not explicitly disclose the steps of creating and entering the formula using a user interface with a formula wizard; however, Official Notice is taken that it was old and well-known in the art of interactive systems to allow a user to specify desired formulas to be used via a formula wizard. Formula wizards facilitate relatively quick and easy selection and/or creation of desired formulas to be used. Since Keith gives its users the ability to customize their pricing strategies and Keith's system is interactive with the users, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Keith to perform the steps of creating and entering the formula using a user interface with a formula wizard in order to facilitate relatively quick and easy selection

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and/or creation of desired formulas to be used. Furthermore, the use of the formula wizard to identify preferred pricing strategies (including formulas) would have yielded predictable and expected results.

[Claim 5] Keith calculates a price to bid and determines if its bid price improves upon a proposed price (¶¶ 435, 698, 706); however, Keith does not explicitly disclose using the formula wizard to enter at least one formula selected from a group consisting of a bid price formula for calculating the price for a bid order, a bid quantity formula for calculating the quantity for the bid order, an offer price for calculating the price for an offer order, an offer quantity for calculating the quantity for the offer order, a bid hedge price formula for calculating a custom price for an opposite order in a bid auto hedge market, and a bid hedge quantity formula for calculating a custom quantity for the opposite order in the bid auto hedge market. As discussed above, Official Notice is taken that it was old and well-known in the art of interactive systems to allow a user to specify desired formulas to be used via a formula wizard. Formula wizards facilitate relatively quick and easy selection and/or creation of desired formulas to be used. Since Keith gives its users the ability to calculate and analyze bid prices and Keith's system is interactive with the users, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Keith to perform the step of using the formula wizard to enter at least one formula selected from a group consisting of a bid price formula for calculating the price for a bid order, a bid quantity formula for calculating the quantity for the bid order, an offer price for calculating the price for an offer order, an offer quantity for calculating the quantity

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for the offer order, a bid hedge price formula for calculating a custom price for an opposite order in a bid auto hedge market, and a bid hedge quantity formula for calculating a custom quantity for the opposite order in the bid auto hedge market in order to facilitate relatively quick and easy selection and/or creation of desired formulas to be used. Furthermore, the use of the formula wizard to calculate the recited bid price or quantity related formulas would have yielded predictable and expected results.

[Claim 6] Keith discloses the calculation of a price based on a market event (¶¶ 87, 107, 119, 126, 152, 175, 261, 262) and a decision to accept certain pricing based on market conditions and a specified quantity (¶¶ 175, 342-360); however, Keith does not explicitly relate this information to using a formula engine to define a related formula (i.e., “wherein the current market information comprises a market event, and the method comprises processing a conditional operation in the formula for determining the price based on the market event, the conditional operation comprising a unit price increase or a unit price decrease”). As discussed above, Official Notice is taken that it was old and well-known in the art of interactive systems to allow a user to specify desired formulas to be used via a formula wizard. Formula wizards facilitate relatively quick and easy selection and/or creation of desired formulas to be used. Since Keith gives its users the ability to calculate and analyze bid prices and Keith’s system is interactive with the users, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant’s invention to modify Keith wherein the current market information comprises a market event, and the method comprises processing a conditional operation in the formula for determining the price based on the market

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event, the conditional operation comprising a unit price increase or a unit price decrease in order to facilitate relatively quick and easy selection and/or creation of desired formulas to be used (e.g., related to pricing, unit price increase/decrease, and market events). Furthermore, the use of the formula wizard to utilize the aforementioned data would have yielded predictable and expected results.

[Claim 7] Keith discloses the calculation of a price based on a market event (¶¶ 87, 107, 119, 126, 152, 175, 261, 262) and a decision to accept certain pricing based on market conditions (including in various markets) and a specified quantity (¶¶ 73, 91, 184, 185, 175, 342-360); however, Keith does not explicitly relate this information to using a formula engine to define a related formula (i.e., “wherein the current market information comprises a market event, and the method comprises processing a conditional operation in the formula for determining the price based on the market event, the conditional operation comprising a unit price increase or a unit price decrease for the market based on another price for another market”). As discussed above, Official Notice is taken that it was old and well-known in the art of interactive systems to allow a user to specify desired formulas to be used via a formula wizard. Formula wizards facilitate relatively quick and easy selection and/or creation of desired formulas to be used. Since Keith gives its users the ability to calculate and analyze bid prices and Keith’s system is interactive with the users, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant’s invention to modify Keith wherein the current market information comprises a market event, and the method comprises processing a conditional operation in the formula for determining the

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price based on the market event, the conditional operation comprising a unit price increase or a unit price decrease for the market based on another price for another market in order to facilitate relatively quick and easy selection and/or creation of desired formulas to be used (e.g., related to pricing, unit price increase/decrease, and market events). Furthermore, the use of the formula wizard to utilize the aforementioned data would have yielded predictable and expected results.

[Claim 9] Keith does not explicitly disclose what is done with the plurality of messages after setting the update flag. More specifically, Keith does not explicitly disclose "deleting the plurality of second messages after setting the update flag"; however, Official Notice is taken that it was old and well-known in the art of data management to delete data that is no longer needed or useful. Such a practice helps to free up available storage space for future use. The Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Keith to perform the step of deleting the plurality of second messages after setting the update flag in order to help free up available storage space for future use. Such results would have been expected and predictable by one of ordinary skill in the art at the time of Applicant's invention.

[Claim 10] Keith does not explicitly disclose what is done with the plurality of messages after setting the update flag. More specifically, Keith does not explicitly disclose "passing the plurality of second messages to a data storage system for storage"; however, Official Notice is taken that it was old and well-known in the art of data management to store data for future reference. Such a practice helps to provide

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an accurate record of a transaction history, which may be useful to document important transaction sequences. The Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Keith to perform the step of passing the plurality of second messages to a data storage system for storage in order to help provide an accurate record of a transaction history, which may be useful to document important transaction sequences. Such results would have been expected and predictable by one of ordinary skill in the art at the time of Applicant's invention.

[Claim 18] Claim 18 recites limitations already addressed by the rejection of claims 2, 3, 8, and 9 above; therefore, the same rejections apply.

[Claims 27-30, 32, 33] Claims 27-30, 32, and 33 recite limitations already addressed by the rejection of claims 2-15 above; therefore, the same rejection applies.

[Claims 37-40, 42-43] Claims 37-40 and 42-43 recite limitations already addressed by the rejection of claims 2-15 above; therefore, the same rejection applies.

[Claims 47-50, 52-53, 61] Claims 47-50, 52-53, and 61 recite limitations already addressed by the rejection of claims 2-15 above; therefore, the same rejection applies.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (571) 272-6733. The examiner can normally be reached on Monday-Friday, 8 am - 4:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571) 272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Susanna M. Diaz/
Primary Examiner, Art Unit 3684